MGN

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE CIVIL JURISDICTION

FERA APPEAL NO.1 OF 2007

M/s.Touchstone Worldwide & Anr..Appellants

Vs.

Special Director,Enforcement Directorate.....Respondents

Mr. Pushkar P. Patankar & Mr. M.K. Dave for the Appellants.
Mr. R.V.Desai,Senior Counsel with Mr. A.S.Rao, Mrs. S.V. Bharucha and Mr.R.C. Master for the respondents.

**CORAM: F.I. REBELLO &**
J.P.DEVADHAR,JJ.
**DATED: 27TH JULY,2007**

**P.C.:**

. We have perused the impugned order dated 16th January, 2006 whereby the Appellate Tribunal has confirmed the order of adjudication. The learned Counsel for the Appellant by this Appeal seeks admission on the questions framed in para.4 of the Memo of Appeal. On a consideration of Section 83 of the FERA Act, 1973 the presumption arising thereon had to be rebutted by the Appellants. The learned Appellate Tribunal has considered the material on record. The contention urged on behalf of the Appellants herein was that either the foreign buyer did not pay the outstanding dues or they have become bankrupt. The learned Tribunal recorded a finding of fact that no material was placed before it or the steps taken by the Appellants to get

confirmed that the said companies have become insolvent. In so far as the issue of non-payment of outstanding dues are concerned, the learned Tribunal again recorded a finding that there was nothing on record to show that RBI was approached for advice or for extension of time, which shows appellants indifference and such apathy. These are purely findings of fact on the material available. In fact the said finding would be now a concurrent finding of fact. Nothing has been brought on record to draw our attention to show that the said findings are perverse or based on no material.

2. In fact the Tribunal on consideration of the material came to the conclusion that after the imposition of penalties on the firm no penalty could have been imposed on the individual partners and, therefore, set aside the penalty in so far as the partners are concerned.

3. In our opinion no question of law arises. Hence Appeal dismissed.

4. Learned Counsel for the Appellants states that a sum of Rs.2.50 lakhs has been deposited with the Enforcement Directorate. The said amount to be adjusted against the penalty due and payable by the Appellants.

**(J.P. DEVADHAR, J.)** **(F.I.REBELLO, J.)**